

PLANNING THE "WHEN" AND "HOW MUCH" OF DEVELOPMENT:
INTERJURISDICTIONAL GROWTH MANAGEMENT IN MARIN COUNTY, CALIFORNIA

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Background: The Marin Countywide Plan

Marin County, California, is the other side of the Golden Gate Bridge for most visitors to the San Francisco Bay Area. It is 333,000 acres of beaches, rolling hills, and redwoods, including Point Reyes National Seashore and Muir Woods National Monument. Marin's government is probably best known for its Frank Lloyd Wright-designed Civic Center, with its blue roof bridging three hills near the 101 freeway.

Now Marin is pioneering in the currently fashionable field of growth management, with a system that is unique because it will directly control the growth rate according to adopted general plans and tie together the efforts of several independent, equal jurisdictions.

Most of Marin's 220,000 population lives in the eastern part, or City-Centered Corridor, in the 11 cities and several established unincorporated areas. These urbanized communities extend to the shore of San Francisco Bay and are separated from each other by ranges of hills, which provide a physical separation and visual backdrop.

Marin residents are generally well-to-do (the 1970 Census reported Marin the fourth highest county in the United States in median family income), white (more than 95 percent), well-educated, and politically active. There are several private organizations, in particular the Marin Conservation League, which established a tradition of environmental activism decades before the movement gained national prominence.

Despite a strong progressive strain among the general population, planning in Marin, during the 1950's and 1960's, by the County and the cities, was based on the conventional, familiar tenets: growth is good, development means progress, property values should be enhanced and raised if possible, mobility requires private automobiles, land uses should be segregated, and every

family should reside in a homogeneous neighborhood with curvilinear streets.

Then in the late 1960's things changed. A citizens' "freeway revolt" stopped the State's proposed extensions of two roads through the County. These freeway plans had been based on population growth anticipated in adopted local plans. The County in 1968 began an analysis of the transportation and land use impacts of the current plans, and the findings were eye-opening. The County's ultimate population of 800,000 (about four times the current number) would create a demand for doubling or tripling the width of Route 101, the County's main traffic artery, by the year 2020, since the local plans had no provision for public transportation. A second deck for cars on the Golden Gate Bridge would be necessary.

It was clear that local plans prepared in isolation and based on conventional assumptions were leading to some potentially horrifying results, in excessive growth and environmental damage. As a first step in developing alternative approaches, the County's 12 jurisdictions established the City-County Planning Council. It was charged with the responsibility of preparing a Countywide Plan, to guide the development of more detailed local plans by the cities and by the County for unincorporated communities.

Completion of the Marin Countywide Plan involved extensive analysis of transportation, land use, environmental, housing, and economic data, together with scores of public hearings, over a five-year period. A preliminary plan was published for discussion and revision in 1971. The revised Countywide Plan was approved by the City-County Planning Council in 1972 and adopted by the Marin County Board of Supervisors in 1973. It has since been used by the County and the 11 cities in the development of local, more specific plans.

The plan represents a significant change in local Marin County politics--the ascendancy of citizen control over planning and development, primarily based on environmental concerns, and the

descendancy of pro-development forces and their informal alliances with local elected officials. Since 1970, a majority of Marin's cities have shifted from a pro-development to a pro-planning majority on their five-member councils, one via a recall election centering on a proposed shopping center. (By contrast, Novato, the city in northern Marin, shifted in the opposite direction.)

Not surprisingly, the Countywide Plan and its subsequent implementing ordinances have been subject to opposition from the conservative forces in the County, in particular, large landowners and the County's only daily newspaper, the Independent-Journal. There has also been some opposition from officials in San Rafael, the County seat and largest city, on the grounds that the Countywide Plan is a threat to local authority. Support has come consistently from countywide environmental and voter education groups, such as the League of Women Voters, and from pro-planning organizations and individuals within local communities.

The goals of the plan are:

1. Discourage rapid or disruptive population growth, but encourage social and economic diversity within communities and in the County as a whole.
2. Achieve greater economic balance for Marin, by increasing the number of jobs and the supply of housing for the people who will hold them.
3. Achieve high quality in the natural and built environments, through a balanced system of transportation, land use, and open space.

The County has proceeded with numerous programs to implement these goals and the related policies of the Countywide Plan, including the zoning of plan-designated greenbelt areas to very low density residential planned districts and the drafting of ordinances aimed at obtaining low and moderate-income housing. This paper will deal with the efforts of the County and the cities to implement the first goal, to discourage rapid or disruptive population growth.

Growth Management: Problems and Approaches

There are six basic problems faced by Marin in devising a growth management system that will advance the goals of the Countywide Plan:

- How to obtain more low and moderate-income housing while carrying out the policy of managing the growth rate.

Housing prices in Marin are rising rapidly, and studies done for the plan show that even if the market were to operate unrestrained by the year 1980 more than half the units in the County would be priced beyond the reach of any but high-income families. Housing trickles up, not down, in price in Marin, and it will continue to do so regardless of whether there is an effort to limit supply. The approach to growth management must be a positive technique for redressing the imbalance in the housing market.

- How to plan and manage growth cooperatively and effectively when jurisdictions are equal and independent.

The County of Marin has no authority over any of the 11 cities. There is no effective regional control over development in the Bay Area. Therefore, there is no guarantee that unilateral decisions on development will conform to Countywide Plan growth targets.

- How to coordinate utility capacity with planned growth rates.

Water and sanitary districts are separate government bodies with independently elected boards in Marin. Their capacity is critical to growth. The water district serving all but the northern portion of urbanized Marin imposed a moratorium on the issuance of permits in 1973 because of an impending water shortage. Voters have turned down bond issues to expand the water supply, in large part because of fears that more water would mean excessive growth. Most of Marin is thus faced with a de facto no-growth situation. The water district supports the policy that general purpose government should control growth, and the district should plan and expand its capacity accordingly. This will require the effective control over

annual growth rates, as well as long-range holding capacity.

- How to achieve development of the highest level of consistency with plan policies, rather than accepting applications on a first come/first served basis.

Even when a local jurisdiction is attempting to manage growth, it is difficult from both a planning and legal standpoint to deny an application because it would exceed the growth rate in combination with previous approvals, especially if earlier proposals were of lesser quality. There is a need to collect and compare project proposals.

- How to achieve equity for small developers.

Any growth management system which requires delays and encourages projects containing moderate-income housing and other amenities provides an advantage for large developers over small ones. In Marin it would be desirable to ameliorate this effect in the interest of small local builders.

- How to surmount legal obstacles to growth management.

The City of Petaluma, which is in Sonoma County, immediately north of Marin, has developed a growth management system that is the subject of a suit still unsettled as of this writing. The U.S. District Court found the city's residential development ordinance unconstitutional, in part because its imposition of an annual quota conflicts with the right to travel. Marin County has joined with Petaluma in its appeal of this decision.

In developing a growth management system that deals effectively with these concerns, the Marin County Planning Department staff did a brief survey of techniques being used elsewhere in the United States. Most communities undertaking these programs are, understandably, suburban growth centers in major metropolitan areas, or communities with visitor attractions. In cities with stable or declining populations the policy is generally to intervene in the market to encourage rather than discourage residential growth.

It appears that there are seven basic methods, which in some cases are combined in one jurisdiction's approach:

1. Monitoring. Preparing for growth or change by assessing and projecting trends is still the approach used in conventional plans. In some cases it is accompanied by temporary moratoria on development, to allow time for planning (Dade County, Florida; San Jose, California). The problem with this approach is that it puts localities in the position of responding to supposedly inevitable market forces, rather than establishing positive standards. This can put local governments into an untenable position when they are held responsible for maintaining environmental quality, as they are in California. Growth projections also have a tendency to become self-fulfilling.

2. Cost-Benefit Analysis. These studies have found repeatedly that most residential development does not "pay its way", when quantifiable variables are measured. Having this information, the locality is faced with the questions of what to do about it and how to deal with less quantifiable variables such as social needs. Communities that have done cost-benefit analyses of residential growth (Palo Alto, California; Fairfax County, Virginia; Ann Arbor, Michigan) have generally found it necessary to move on to more direct methods of growth management.

3. Zoning. Conventional zoning is in a sense a form of growth management since it sets an ultimate holding capacity. In almost all cases, of course, the total number is far in the future, and probably much higher than the community is prepared to deal with. "Timed" zoning, which releases land for development at a future date, has been applied or discussed in a few cases (the States of Hawaii and Vermont, Martha's Vineyard). Even in the "timed" approach, however, there is no control over the rate or placement within the areas zoned for development.

4. Limit Lines. This approach confines urbanization to areas contiguous to existing development, generally where public services either exist or are definitely programmed. Controls are through annexation procedures (Santa Clara and Orange Counties, California; Willamette Valley, Oregon) or special permits based on service

capacity (Ramapo, New York). Like "timed" zoning, this method does not confront the question of the growth rate within the defined area. It also limits growth according to the most restricted service, rather than according to policies of general purpose government. The annexation approach would be difficult to apply in Marin, where there are several established unincorporated communities where there is very little likelihood of annexation or incorporation.

5. Land Capability Analysis. The approach advocated by Ian McHarg maintains that nature imposes limits upon the land which must be respected in the planning and development process. This method was used most notably in the Lake Tahoe region, where volumes of meticulously prepared and analyzed data have been, unfortunately, largely ignored in subsequent political decisions. Numerous other communities have also used land capability analysis, which is most useful in land use studies leading to policy formulation. There are problems when this method is used as a growth management technique, however, it is usually possible to engineer solutions to most natural constraints, so that the amount and rate of growth are not necessarily affected.

6. Improvements in the Planning Review Process. A number of communities have used studies of growth impacts as a basis for making extensive improvements in the planning and project review process. A public concern about excessive growth and what to do about it is being built into a continuing system of analysis, planning, programs, and ordinances in Boulder, Colorado, and Montgomery and Fairfax Counties, Virginia. This particular use of the growth issue is less significant in California, where the local planning process is mandated by the State planning law (which specifies the contents of local plans) and the California Environmental Quality Act (which requires environmental impact reports on significant private, as well as public, projects).

7. Direct Numerical Control. The use of direct numerical controls over growth is relatively rare, in part because of unanswered legal questions. Boca Raton, Florida, has imposed a population "cap", or ultimate maximum; here the question is what the community can do once this ultimate figure is reached. Marin County and Petaluma, California, are seeking to impose annual growth quotas; in the case of Marin the annual figure would be based on adopted plans and adjusted according to recent trends.

Except for the Direct Numerical Control technique, the methods being used do not actually affect or manage growth. They establish improved planning analysis and project review procedures, and deal more effectively with the "where" and "what kind" questions of development. However, they do not deal directly with the "when" and "how many" questions, which are critical when service agencies must be able to depend upon specific growth rates and when local government is responsible for maintaining environmental quality.

Marin's Residential Development Review Boards

The Marin County Board of Supervisors adopted the Residential Development Review Board ordinance on May 13, 1975, as the County's system for growth management. The ordinance and accompanying Joint Powers Agreement is now being considered by the four cities in Southern Marin.

The ordinance was drafted to meet certain specific criteria, recognizing Marin's special problems and concerns. Because the 12 jurisdictions are equal and independent, it is necessary to establish a separate body with veto power for the expressed, limited function of controlling the growth rate. To assure effective numerical limits and quality control, project proposals will be collected and compared periodically. To convey the intent of the Countywide Plan and to assure that the ordinance has an inclusionary

rather than an exclusionary effect, heavy emphasis is placed on provision of low and moderate-income housing.

The system will work as follows:

1. Each participating jurisdiction adopts the Residential Development Review Ordinance, which establishes the system for reviewing projects in accordance with specified growth rates. The ordinance is uniform throughout the County. The jurisdictions also adopt an accompanying Joint Powers Agreement, which spells out the specifics of how the ordinance will operate within each planning area. There are six planning areas designated by the Countywide Plan in the City-Centered Corridor; each includes between one and four incorporated cities and some unincorporated areas, including several long-established communities outside cities.

2. Each jurisdiction appoints its members of the Residential Development Review Board that will operate within a planning area. There is no need for any particular expertise among members, since the Review Boards will operate according to objective criteria within strictly defined limits. They do not exercise subjective judgments or make conditional approvals, as a Planning Commission or City Council does.

3. Each year, the governing bodies of jurisdictions in each planning area will meet and set annual quotas for housing units to be approved. The annual quota will be set on the basis of growth targets of adopted plans, current conditions and trends, recent growth rates, and utility capacity. The Countywide Plan has specific 20-year growth targets for each planning area, which have generally received concurrence in the preparation of the cities' plans. The system would not impose a rigid annual quota, but would allow flexibility in the annual number according to current conditions. The 20-year target, however, would remain fixed, so that utilities and other service agencies would be guaranteed that a maximum would not be exceeded.

4. All jurisdictions then process residential development applications under their own procedures. It is not necessary to impose a uniform system of planning and environmental review or to make detailed changes in local codes and ordinances. Only projects finally approved by the appropriate City Council or County Board of Supervisors are considered by the Review Boards, which do not have the power to call up proposals denied by local jurisdictions.

5. All residential projects must await action by its area's Review Board before building permits are issued. An exception is single-family homes on existing lots, for which legal opinion holds that only extreme hazards to public health, safety, and welfare can prevent development. Another exception is projects up to 10 units within "in-filling" areas designated by each jurisdiction, if projects conform to existing zoning which is based on adopted plans. These areas are already predominantly built up, with only scattered vacant lots. The in-filling provision encourages the use of existing utilities and services and eases the impact of the ordinance on small developers.

6. The staff of each jurisdiction rates each finally approved project according to a 100-point criteria list. The basic categories are:

Provision of low and moderate-income housing:	30 points
Environmental quality:	30 points
Utilities and public services:	20 points
Project facilities and design:	20 points

The criteria are included in the Joint Powers Agreement. They include detailed point allocations, designed for objective responses to the greatest extent possible and derived principally from the policies of the Marin Countywide Plan. The detailed points can vary according to the policies of local plans. For example, under Environmental Quality, up to 3 points are given according to the percentage of physical development located on areas designated for restrictions in the Marin Countywide Plan

and local plans, including conservation zones, agricultural areas, watersheds, and areas shown as desirable for open space.

7. Every four months the Review Board meets. If the quota for that four months is not exceeded, all projects are approved. If the quota is exceeded, the Review Board holds hearings on all approved projects and gives a rating on the 100-point criteria. Changes in staff ratings can be made on the basis of factual information, not personal judgments.

8. Projects rated the highest and falling within the quota are approved. Others are not approved for that four-month period but are automatically reconsidered at two more review sessions. There are no appeals of decisions except to the courts. If appeals were allowed to go back to City Councils or the Board of Supervisors, there would be no guarantee of effective adherence to growth targets.

Present Status of Review Boards

Following adoption of the Residential Development Review Ordinance by the County Board of Supervisors in May, both the ordinance and accompanying Joint Powers Agreement will be considered for adoption by the four cities in Southern Marin during the summer of 1975. All four cities have previously endorsed the ordinance in principle and held a workshop meeting to agree on its final form. Adoption is likely during the summer, and it is likely that the first Review Board may be in operation by the time of the Fall AIP Conference in San Antonio.

The four cities in the Richardson Bay Communities (Southern Marin) Planning Area are Belvedere (population 2,500), Mill Valley (13,000), Sausalito (6,200) and Tiburon (6,800). There are also three established unincorporated communities: Tamalpais Valley (10,000), Strawberry (3,900) and Marin City (1,600).

Southern Marin contains very high-income communities, although Marin City, including public housing rebuilt following the settlement

of ship builders during World War II, is a low-income black ghetto. The area has a tradition of fairly liberal, conservationist politics. A number of local elected officials have moved up to State office on pro-planning, environmentalist platforms.

The City Councils have given their strong support in principle to the Residential Development Review ordinance so far, with votes of 5-0 and 4-1. One Planning Commission, in Tiburon, has strongly opposed the ordinance, but the City Council overruled. The objections were on the grounds that the Review Boards were another layer of government; that Tiburon could solve its problems best alone rather than by working with the County, which Tiburon feels has approved unattractive developments in adjacent unincorporated areas; that the ordinance is pushing low and moderate-income housing, which is not feasible in Tiburon; and that the ordinance may be unconstitutional. These objections are similar to those raised by other cities outside the Richardson Bay Planning Area. (It should be noted that the Tiburon Planning Commission includes some defeated City Council candidates who have assumed a role of opposing the Council on occasion.)

Both the Tamalpais Valley and Strawberry unincorporated communities have endorsed the ordinance in their local community plans. Marin City representatives have not responded to requests to participate in discussions on the ordinance. The Marin City Master Plan recommends extensive new development on now-vacant ridgelands in the area, and the community generally favors growth as a means of improving the economic and social mix and creating jobs. It may be that in achieving the area's growth targets the generally anti-growth sentiment of the other communities in the planning area will be balanced by the pro-growth attitudes of Marin City, where there is strong support for low and moderate-income housing also.

Four other cities in the two planning areas immediately north of the Richardson Bay Communities Planning Area have also endorsed the Review Board ordinance in principle. They are Corte Madera (population 8,000), Fairfax (7,300), Larkspur (12,100) and San Anselmo (12,500). It is likely that the Lower Ross Valley Planning

Area, including Corte Madera and Larkspur, will be the next to establish a Review Board. Ross (2,700), a conservative, nearly fully developed community, has declined participation in any discussions on the ordinance.

Ironically, but not surprisingly, the two largest cities in Marin, San Rafael (45,000) and Novato (36,700) are most opposed to adopting the County ordinance. These two cities have experienced the most rapid growth rates in recent years, well above Countywide Plan targets. Novato receives water from the North Marin County Water District, rather than the Marin Municipal Water District, and thus is not affected by the Marin Municipal Water District moratorium. San Rafael's growth rate can be expected to decline now, with the effect of the moratorium.

Both cities' general plans contain policies favoring growth management, and both are using the land capability analysis approach. Both cities maintain that with detailed, effective environmental controls it will not be necessary to use numerical quotas. San Rafael holds that joint review with the County is not necessary, since any urbanized area within its sphere of influence should annex. (There are, however, established unincorporated communities adjacent to San Rafael where there appears to be inadequate political support for annexation.) The Novato approach, as drafted by staff, would not collect projects for comparative evaluation but would impose an elaborate project rating system which would be subject to change annually in accordance with local policies.

The political situation in both cities has affected attitudes toward growth management. The San Rafael City Council has recently shifted to a generally pro-planning majority; however, there is a history of suspicion and conflict between the City and the County which has filtered down to the staff level.

Novato was the first city to adopt a new general plan based

on the Countywide Plan, including the limited growth policy. The County therefore worked first with Novato on the Review Board ordinance at the staff level. However, a joint meeting between the County Board of Supervisors and the Novato City Council ended in fruitless acrimony when the Council recommended that the Novato Planning Commission alone serve as the Review Board, and two Supervisors walked out in response. Since then the Novato staff has been pursuing its highly technical approach and the City Council has shifted farther toward a pro-development policy. It is not clear now whether either the City staff's or the County's growth management proposal would gain support of the Novato City Council.

The County Planning and Legal staffs began work on the ordinance in the summer of 1973, immediately after the adoption of the Countywide Plan. Following the unsuccessful effort with Novato, the County Supervisor from the Richardson Bay Communities (Michael Wornum, a planner and now a State Assemblyman) called together representatives of these communities to discuss the ordinance. Following another year of meetings, hearings, and revisions, it appears that the ordinance is about to begin operating.

The Significance of Marin's Ordinance to the Planning Profession

Several characteristics of the Marin Residential Development Review Ordinance are relevant in the current movement toward growth management as part of the planning process.

First, the Marin ordinance does in fact manage the growth rate, in accordance with the policies of adopted general plans. It does not, as most other approaches do, simply mitigate the impacts of growth. Marin sees growth management as a reasonable extension of the planning process, that must be exercised if local government is to meet the environmental and social responsibilities now

assigned to it. The ordinance grows directly from the County-wide Plan, its policies and the five years of research, analysis, review, and revision that went into it. It is not, therefore, an ad hoc response to a perceived environmental emergency, as many moratoria are, but a rational plan implementation tool.

The growth rate called for in the Countywide Plan is consistent with the County's share designated in the Regional Plan of the Association of Bay Area Governments. Thus, Marin is seeking to assure that it accommodates its fair share of regional growth, at a reasonable rate, not seeking to send it elsewhere. It would be far preferable if there were effective growth management policies and programs at the regional, State, and National levels. However, in their absence it seems incumbent upon local governments to exercise this planning responsibility.

The Marin ordinance is also relatively simple. It is policy-oriented, rather than technical, although the criteria are written to be as objective as possible. The Countywide Plan itself was based on extensive data projections and analysis. It is also recognized that local governments will continue to improve their ability to measure land capability and project impacts and that these improvements will be built into local review processes. However, the community consensus in Marin appears to be that now is the time to act on controlling the growth rate based on the best knowledge available, rather than waiting until much more precise techniques of land capability measurement are devised.

Much credit must go to Marin's creative County Counsel Douglas Maloney, who drafted the language of the ordinance. He has shown his willingness to press for an innovative solution to this local planning problem, even when the legal boundaries of what is permissible are not yet clear, once he was convinced of the method's reasonableness and sound basis in planning analysis and policy.

Marin's ordinance contains a number of features which should help it to hold up in court, if that should become necessary. It is interjurisdictional, providing for communities within environmentally interrelated areas to act jointly, rather than, like Petaluma, one jurisdiction acting alone. The ordinance also places very heavy emphasis on the provision of low and moderate-income housing, with 30 out of 100 points on the rating criteria. The ordinance is expressly presented as a means of redressing the imbalance in the housing market by creating a real incentive for developers to provide such housing. The veto power of the boards has precedents in other California quasi-judicial bodies which exercise special-purpose reviews over projects which have received all local approvals. These include the San Francisco Bay Conservation and Development Commission and the Coastal Zone Conservation Commission.

From a planning standpoint one of the most important potential outcomes of the ordinance is the opportunity it presents for adjacent, independent communities to plan and make decisions cooperatively in the annual quota-setting meetings. The ordinance respects the authority of local jurisdictions and allows for maximum variety in planning processes. However, the studies of the impacts of independently prepared local plans in the late 1960's showed the disastrous results of planning alone. The Residential Development Review Board Ordinance provides a means to plan together.

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